

Waymo v. Uber
Case No. 3:17-cv-00939-WHA

APPENDIX A

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Document	Description	Pre-Litigation Recipient Witnesses	Admissibility
TX-7912 Stroz Report	Summary Report - Project Unicorn Investigation	Adam Bentley; Angela Padilla; Eric Tate; John Gardner; Justin Suhr; Lior Ron Uber believes, but cannot confirm, that Anthony Levandowski received the report.	Potentially admissible under Fed. R. Evid. 801(d)(2)(C) as to Stroz's own statements, if Waymo lays appropriate foundation. Not admissible under any other provision of Fed. R. Evid. 801. Not admissible under any provision of Fed. R. Evid. 803. Not admissible under any provision of Fed. R. Evid. 804. Embedded hearsay inadmissible under Fed. R. Evid. 805. Because inadmissible embedded hearsay pervades the document, making a limiting instruction ineffective and ensuring jury confusion and unfair prejudice to Uber, the document should not be admitted for its truth to any degree. Fed. R. Evid. 403. Potentially admissible for a non-hearsay purpose as to Uber witnesses listed to the left.
TX-7111 Exhibit 5	Anthony Levandowski ("Levandowski") Redacted Interview Memorandum and Exhibits	*Adam Bentley; *Angela Padilla; *Cameron Poetzsch; Eric Tate; John Gardner; *Justin Suhr; *Nina Qi; *Salle Yoo	Potentially admissible under Fed. R. Evid. 801(d)(2)(C) as to Stroz's own statements, if Waymo lays appropriate foundation. Not admissible under any other provision of Fed. R. Evid. 801. Not admissible under any provision of Fed. R. Evid. 803. Not admissible under any provision of Fed. R. Evid. 804. Embedded hearsay inadmissible under Fed. R. Evid. 805. Because inadmissible embedded hearsay pervades the document, making a limiting instruction ineffective and ensuring jury confusion and unfair prejudice to Uber, the document should not be admitted for its truth to any degree. Fed. R. Evid. 403. Potentially admissible for a non-hearsay purpose as to Uber witnesses listed to the left. Witnesses marked with an asterisk received an identical document prior to the drafting of the Stroz Report, but never received the document as an Exhibit to the Report; questioning must be limited to avoid misleading the jury as to whether these witnesses ever received any of the Exhibits to the Report as such. Fed. R. Evid. 403.
TX-5215 Exhibit 6	Lior Ron ("Ron") Redacted Interview Memorandum and Exhibits	*Adam Bentley; Eric Tate; John Gardner; *Justin Suhr; *Lior Ron	Potentially admissible under Fed. R. Evid. 801(d)(2)(C) as to Stroz's own statements, if Waymo lays appropriate foundation. Not admissible under any other provision of Fed. R. Evid. 801. Not admissible under any provision of Fed. R. Evid. 803. Not admissible under any provision of Fed. R. Evid. 804. Embedded hearsay inadmissible under Fed. R. Evid. 805. Because inadmissible embedded hearsay pervades the document, making a limiting instruction ineffective and ensuring jury confusion and unfair prejudice to Uber, the document should not be admitted for its truth to any degree. Fed. R. Evid. 403. Potentially admissible for a non-hearsay purpose as to Uber witnesses listed to the left. Witnesses marked with an asterisk received an identical document prior to the drafting of the Stroz Report, but never received the document as an Exhibit to the Report; questioning must be limited to avoid misleading the jury as to whether these witnesses ever received any of the Exhibits to the Report as such. Fed. R. Evid. 403.
TX-7418 Exhibit 15	Last-Access Report re: Levandowski's Self-Identified Data	Eric Tate; John Gardner	Not admissible under any provision of Fed. R. Evid. 801. Not admissible under any provision of Fed. R. Evid. 803. Not admissible under any provision of Fed. R. Evid. 804. Embedded hearsay inadmissible under Fed. R. Evid. 805. Inadmissible for any non-hearsay purpose because Uber never received the document. Potentially admissible for a non-hearsay purpose as to Uber's outside counsel, but because the jury cannot be asked to speculate as to what advice Uber's attorneys may have provided, the risk of unfair prejudice substantially outweighs the negligible probative value and the document should be excluded. Fed. R. Evid. 403.
TX-7114 Exhibit 16	Analysis Report of Last-Access Files from Levandowski's Self-Identified Data	Eric Tate; John Gardner	Not admissible under any provision of Fed. R. Evid. 801. Not admissible under any provision of Fed. R. Evid. 803. Not admissible under any provision of Fed. R. Evid. 804. Embedded hearsay inadmissible under Fed. R. Evid. 805. Inadmissible for any non-hearsay purpose because Uber never received the document. Potentially admissible for a non-hearsay purpose as to Uber's outside counsel, but because the jury cannot be asked to speculate as to what advice Uber's attorneys may have provided, the risk of unfair prejudice substantially outweighs the negligible probative value and the document should be excluded. Fed. R. Evid. 403.
TX-5101 Exhibit 17	Levandowski Report of Preliminary Forensic Findings	Eric Tate; John Gardner	Potentially admissible under Fed. R. Evid. 801(d)(2)(C) as to Stroz's own statements, if Waymo lays appropriate foundation. Not admissible under any provision of Fed. R. Evid. 801. Not admissible under any provision of Fed. R. Evid. 803. Not admissible under any provision of Fed. R. Evid. 804. Embedded hearsay inadmissible under Fed. R. Evid. 805. Inadmissible for any non-hearsay purpose because Uber never received the document. Potentially admissible for a non-hearsay purpose as to Uber's outside counsel, but because the jury cannot be asked to speculate as to what advice Uber's attorneys may have provided, the risk of unfair prejudice substantially outweighs the negligible probative value and the document should be excluded. Fed. R. Evid. 403.

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TX-5102 Exhibit 23	Stroz Friedberg's Investigative Report re: Shred Works	Eric Tate; John Gardner	<p>Potentially admissible under Fed. R. Evid. 801(d)(2)(C) as to Stroz's own statements, if Waymo lays appropriate foundation.</p> <p>Not admissible under any provision of Fed. R. Evid. 801.</p> <p>Not admissible under any provision of Fed. R. Evid. 803.</p> <p>Not admissible under any provision of Fed. R. Evid. 804.</p> <p>Embedded hearsay inadmissible under Fed. R. Evid. 805.</p> <p>Inadmissible for any non-hearsay purpose because Uber never received the document. Potentially admissible for a non-hearsay purpose as to Uber's outside counsel, but because the jury cannot be asked to speculate as to what advice Uber's attorneys may have provided, the risk of unfair prejudice substantially outweighs the negligible probative value and the document should be excluded. Fed. R. Evid. 403.</p>